

APPENDIX D:

Trial Testimony Transcripts

1 and began working with?

2 A On that day my diagnosis was bi-polar disorder,
3 not otherwise specified, most recent episode depressed with
4 a history of rapid dysthymic disorder.

5 Q Can you spell that for the jury.

6 A D-y-s-t-h-y-m-i-c disorder, alcohol abuse,
7 probably dependence. Rule out brief psychotic episode.
8 Rule out dissociate amnesia.

9 Q We will take those individually. First of all,
10 bi-polar disorder, bi-polar disorder with rapid dysthymic,
11 would you describe, first of all, is that a recognized
12 mental illness in the medical community?

13 A Yes, it is.

14 Q And particularly we have talked about the
15 Diagnostic and Statistical Manual, Fourth Edition, the
16 D. S. M. IV, is that shown in the D. S. M. IV.

17 A Yes, it is.

18 Q Would you describe to the jury what about Lisa
19 made you feel that bi-polar disorder was present at that
20 time?

21 A After reviewing information with her she reported
22 discreet periods of going without sleep for days at a time.
23 Increased energy. May I refer to my initial interview.

24 Q Sure, absolutely. So the jury will understand, do
25 you keep pretty copious notes of your contacts with the

1 inmates you see?

2 A I probably keep lengthier notes than most people.
3 I sometimes get teased about it.

4 A She reported a history of mood swings at that
5 time starting at the age of 28 or 29, and gave a history of
6 going without sleep for three days at a time. Energy was
7 increased and she would feel extremely happy. Gave examples
8 of cleaning the house and, quote, scrubbing the bathroom
9 with a toothbrush. She reports these highs followed by
10 depressive episodes. And in these episodes she would,
11 quote, stare out the window, didn't want to shower, had no
12 motivation, would isolate.

13 She reported it would last a couple days to a
14 week. Unsure if they ever lasted two weeks. She states she
15 has always felt depressed, always felt depressed, quote, she
16 reports the depressive episodes following the highs were
17 more severe in intensity than base line depression.

18 Q What about that kind of history makes a doctor in
19 your position feel that bi-polar disorder is something that
20 is afoot?

21 A What about that history?

22 Q. Yes, which is kind of a general way of asking you
23 to explain to the jury a little bit about bi-polar, did it
24 used to be called manic depressive disorder.

25 A That is the old term, manic depression. The manic

1 or as I refer to them as high moods, are often characterized
2 by periods of sleeplessness. I ask patients if they have
3 been up for 24 hours or more at a time. And if this has
4 been a repeated pattern I also investigate at that time if
5 there was substance abuse or alcohol abuse. Oftentimes
6 patients will report feelings of euphoria, they feel on top
7 of the world, invincible. Or they feel very, very aggitated
8 due to the lack of sleep. It is often accompanied by racing
9 thoughts, inability to concentrate, increased energy, poor
10 judgment, impulsive decisions. Some examples are spending
11 sprees. Just many times people get themselves in trouble
12 with their poor judgment, impulsitivity.

13 Q Let's go then next diagnosis at the time I believe
14 you said was dysthymic disorder?

15 A. Yes.

16 Q. Would you explain to the jury what you mean?
17 I guess I should say what doctors mean by that from the
18 D. S. M. IV?

19 A. Dysthymic disorder is disorder, part of the
20 criteria for it is evaluating a person in terms of
21 chronicity of depression. And one of the identifying
22 factors is to ask someone in a period of two years, 24
23 months would you say that you have been depressed for at
24 least 21 of those months or at any time in your life have
25 you had that. And that is part of the criteria of dysthymic

1 Q Did you also have nurse Kemper visiting her as
2 well as many, almost as many if not as many times as you
3 did?

4 A I don't know if it was as many but really tried to
5 alternate with that usually every week.

6 Q And during that period of time in 2005 did
7 anything about your original diagnosis change, did you see
8 anything that made you back away from any of the portions of
9 your original diagnosis?

10 A Not at that time. I didn't really focus on any of
11 the reports of the alcohol.

12 Q Of course not. Basically that's fairly well taken
13 care of in an incarceration facility?

14 A Right.

15 Q And particularly were you seeing signs in Lisa
16 that you were observing that was confirming your diagnosis
17 concerning bi-polar disorder?

18 A Yes, I observed her throughout the time and kept
19 track of the sleeping habits primarily. And there was many
20 reports of sleep fluctuation, many reports of sleeping two
21 or three hours and then periods of sleeping a good part of
22 the day away.

23 During that period I also monitored her mood which
24 seemed extremely labile, meaning it changed rapidly. It
25 changed rapidly in the periods that I would interview her.

1 Q Why don't you spell labile, is it l-a-b-i-l-e?

2 A Yes.

3 Q That basically means it's unsteady, most of us try
4 to have a steady mood, not get too high or too low. What
5 you are saying with Lisa she is cycling before your very
6 eyes basically?

7 A Yes.

8 Q Describe to the jury the kinds of things you would
9 see when those things were happening?

10 A The speech was notable, we call it fushof speech.

11 Q F-u-s-h-o-f.

12 A Very, very rapid speech. Speech that is also
13 increased in amount. She would sometimes be very vibrant,
14 bright, maybe make comments feeling full of joy. I have one
15 quote like when you are in love with someone. There were
16 other times that she was extremely depressed, tearful.

17 Q Would those occur literally in the same session
18 with her?

19 A There would be changes from, yes, from being very
20 energetic to being very somber and quiet and tearfull.

21 Q Ma'am, did there come a time when you believed
22 that Lisa's condition required you to prescribe regular
23 medications for her?

24 A Yes.

25 Q And can you tell from your records when you

1 specifically used that as an example.

2 Q You were asked also whether you based your
3 initial finding of bi-polar disorder upon your initial
4 interview and your answer was yes. That's all you had at
5 that time, right?

6 A Yes.

7 Q Have you since developed evidence that you have
8 personally seen that confirms that diagnosis?

9 A Yes.

10 Q Would you share with the jury some of the things
11 you have seen that confirm over the last three years, that
12 confirm that diagnosis?

13 A Feelings of boredom, erratic sleep, two hours a
14 night sometimes, four to five hours, that's not really, but
15 two hours a night, mind constantly going, I can't keep up
16 with it.

17 Q Let me make it easier so you don't have to go
18 through every note in your file, are there lots of notes
19 that you have made to yourself over those hundred and five
20 times that you have seen Lisa that in your mind confirm that
21 diagnosis of bi-polar disorder?

22 A Yes.

23 Q Now the question kept being asked of you, are
24 people in C. C. A. depressed. And I guess the short answer
25 to that question could be yes, because they're incarcerated.

1 The key elements are being extremely scared and
2 feeling helpless to do anything about it. And apparently
3 the body, the mind we set to an alarm clock. You get
4 alterations in memory where the people will have memories of
5 traumatic events, get triggered by things that remind them
6 or similar in some way to the trauma.

7 You also get a lot of avoidance. And I remember
8 one of the other symptoms that came out of the post
9 traumatic stress disorder was escape. You also get a
10 disorder alarm clock, difficult sleeping, concentration,
11 hyper vigilant, irritable, always keyed up and on edge.
12 There is some instance of Lisa having post traumatic stress
13 disorder that went untreated throughout her life and formed
14 shifts in mood, nightmares, difficulty sleeping and it's not
15 unusual in these conditions to have episodes of depression
16 and anxiety.

17 Q Did you make any note of her suicide attempts?

18 A Yes.

19 Q What did that mean to you?

20 A Suicide attempt is another extreme escape if one
21 feels particularly overwhelmed. There were several
22 instances in her life when that occurred, one at age 14 when
23 she was stressed about her ability to stop Jack Kleiner's
24 sexual abuse. Another time we heard when Carl and Judy took
25 her two oldest kids and would not return them and maintained

1 she seems to malingering and/or other tests at other times she
2 doesn't. So it's a little bit like the boy who cried wolf,
3 never quite sure when you are getting the truth and when you
4 are getting what she wants you to hear or when you are being
5 manipulated.

6 Doctor Kuncel also administered the M. M. P. I.
7 and/or other M. M. P. I there is a scale called the fake bad
8 Lees-Haley. That fake bad scale, her score for that scale
9 was 28 which is very high for women and indicates that she
10 was faking bad on the M. M. P. I. for Doctor Kuncel. So
11 there were no indications in Doctor Kuncel's testing, two
12 indications in Doctor Hutchinson's testing.

13 And then I tested her myself and again she
14 malingered on the M. M. P. I. exaggerated symptoms on the M.
15 C. M. I. In, fairness although she did exaggerate on those
16 these I gave her other tests where she had valid scores and
17 the results were interpretable.

18 Q Did you detect any signs for post traumatic stress
19 syndrome, did you test for that?

20 A Yes.

21 Q. What did you conclude?

22 A. I concluded she gave a valid performance on the
23 test of P. T. S. D. and endorsed the symptoms consistent
24 with post traumatic stress disorder.

25 Q Post traumatic distress could be caused by many

1 things, that's right?

2 A That's correct.

3 Q And is it possible the defendant's depression, you
4 noted could be related to the fact she was in jail facing
5 very serious charges?

6 A Absolutely. There was in addition to P. T. S. D.
7 there was evidence of depression in the tests that came up
8 valid and it very much could be related to the fact she was
9 in jail and facing trial. Certainly when I saw her
10 clinically she was tearful, she was upset. At one point she
11 couldn't continue with the exam. She exhibited signs and
12 symptoms of depression that seemed to be related to her
13 current situation at that time.

14 Q In fairness could it also be connected to the fact
15 that she may have been abused and sexually abused,
16 physically abused and sexually abused as a child?

17 A. Absolutely.

18 Q. Is it also possible that post traumatic stress
19 disorder could be connected to what she did in this case
20 which was to strangle Bonnie Jo Stinnett, cut out her baby
21 with a knife?

22 A That's also entirely possible. It's not unusual
23 for people who commit violent crimes, particularly
24 horrifying, to have trouble sleeping after what she did and
25 develop post traumatic stress from the act of the crime

1 they did it a week before. Her examples of excessive energy
2 or spending sprees or even racing thoughts were not anything
3 that sounded very significant to me.

4 A Doctor Logan was, until last week, the only one
5 thought the defendant was psychotic at some point during
6 custody. He saw her in March, 2005. And the evidence he
7 mentioned in his report, maybe there is something else he
8 didn't put there, in his report the only evidence he gave of
9 anything that sounded psychotic was in March, 2005 after
10 having been in solitary for quite a long time the defendant
11 described hearing her mother's voice. The report didn't
12 give enough detail to be able to tell whether that was
13 day-dreaming, imagining, obsession, a thought, a phantasy or
14 a delusion and the only one of those things that's psychosis
15 is delusion.

16 So I was skeptical about whether that, I meant to
17 say had hallucinations. The phantasy are not psychotic.
18 Imagination is not. Day dreams aren't psychotic.
19 Obsessions aren't psychotic but hallucinations are. A
20 patient who has a hallucination in which they hear a voice
21 coming from outside their head they think is real when it
22 isn't, that's psychotic.

23 Doctor Logan's report didn't give enough detail
24 for me to believe that this incident that the defendant was
25 describing was an example of hallucination. And when I

1 asked the defendant about the same symptom of hearing her
2 mother's voice the account she gave me did not persuade me
3 it was hallucination.

4 Q Of course, Doctor Logan didn't videotape his
5 meetings with the defendant, did he.

6 A Correct.

7 Q Go to the next slide.

8 A Based on everything I did have of that mood
9 disorder which includes some missing data, there may be more
10 there than I know about. I think the defendant may indeed
11 have a mood disorder and just what it should be called,
12 whether it's a desimec disorder, whether major depressive
13 illness or whether it's part of a personality is where I am
14 uncertain. Often people with the personality pattern she
15 has have such emotional instability they get diagnosed as
16 having a major depression or being bi-polar. They get
17 treated with medications for those things when it's really
18 just a personality disorder. That can be true here, too.
19 It's hard to sort these out.

20 But I did think she might really have a
21 depression. Her level of work in the months before the
22 charged offenses, the level of internet activity she engaged
23 in and the preparations for this crime, assuming she did it,
24 indicate that she had sufficient energy and mental acuity to
25 function at work and to plan and execute the charged

1 offenses.

2 So it was my opinion that even if she has a
3 recurring redress on depression, that at the time of the
4 charged offenses she was not impaired by depression in a way
5 that is relevant to the question before us.

6 Q Now did you also address the post traumatic stress
7 disorder claim?

8 A Yes. With respect to that, her psychological
9 testing was consistent with post traumatic stress disorder.

10 Q That was also consistent with what the defense
11 found?

12 A Yes. And what the defendant says and the way she
13 behaves in all of the exams I think is consistent with her
14 actually having post traumatic stress disorder. And my
15 problem in analyzing the evidence, the very evidence that
16 might have permitted proof of post traumatic stress disorder
17 has been corrupted by some of the tests that were given and
18 by the unrecorded exams which leaves -- a familiar story,
19 this happens often when a proper record of it all would have
20 offered clear proof she really does suffer from post
21 traumatic stress disorder.

22 Here we have to give the benefit of the doubt to
23 the record or make a judgment and hunch and it would be my
24 judgment or hunch that she has that condition despite some
25 of the evidence not being at hand.

1 find makes any difference when people understand what they
2 do or have done, what they have done, everything can react
3 to early childhood all the way into adulthood, those
4 insights, I was confused because of how my parents treated
5 me but this is real and that is not, you start to build some
6 solid foundation in order to integrate one's sense of self.
7 And I could see that starting to happen. She was using what
8 was going on to try to put herself together. And I thought
9 she's really frankly a prime candidate for therapy because
10 she's able to use it. Some people are not very good at it.

11 Q Let me ask you in your process were you able to,
12 through your interviews and your review of the information
13 that you saw, were you able to diagnose Lisa with certain
14 conditions, to a reasonable degree of psychological
15 certainty?

16 A Yes, I think so.

17 Q Would you describe those to the jury.

18 A Well, I thought she had a post traumatic stress
19 disorder and I thought she had quite a substantial one.

20 Q Let me stop you there. You have described knowing
21 and seeing post traumatic stress disorder in the V. A.
22 Hospital setting in light of the terrors of war these
23 fellows had seen. Have you also seen post traumatic stress
24 disorder in women that are sexual abuse survivors.

25 A Yes.

1 the bigger picture of guiltting her, making her feel terrible
2 about things that were not of her doing. It's not a ten
3 year old responsibility to a parent. And if the parenting
4 goes wrong why should she end up feeling guilty. If the
5 father had to testify that's his behavior, not hers, so
6 again cause and effect.

7 Just like the soldiers coming back what was real
8 and what wasn't was confused. There was a lack of the
9 logic, a process going on there where she wasn't really in
10 some basic way making a lot of sense because parts of her
11 did not come together properly.

12 Q You felt comfortable in diagnosing Lisa with post
13 traumatic stress disorder as a result of her childhood
14 physical and sexual abuse?

15 A Yes. And then I think subsequent events,
16 childhood and then some of the things that happened here
17 absolutely traumatized her all over.

18 Q Was there also another diagnosis you made of her?

19 A That was major depression. She was extremely
20 depressed. Having trouble eating and sleeping and feeling
21 helpless and hopeless, depressed mood, chronic crying.
22 There was also a huge amount of general anxiety apart from
23 the post traumatic stress disorder and I diagnosed her with
24 that.

25 Q And anything else?